IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 28TH SEPTEMBER 2006 / 6TH ASWINA 1928

Bail Appl..No. 5724 of 2006

CRIME NO.237/2006 OF BEKAL POLICE STATION

PETITIONER/ACCUSED

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1. P.V.SHERIEF, S/O. KUNHABDULLA,
   P.V.HOUSE, MADIYAN, MANIKOTH,
   AJANOOR VILLAGE.

2. P.MUHAMMED, S/O. ASSAINAR,
   PADINHAR HOUSE, MANIKOTH, AJANOOR VILLAGE.

3. K.RAJENDRAN, S/O. GOPALAN,
   PUTHIYAKANDAM, MAVUNGAL, AJANOOR VILLAGE.

BY ADV. SMT.T.SUDHAMANI

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/09/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 5724/2006

DATED THIS THE 28TH DAY OF SEPTEMBER, 2006

O R D E R

The petitioners are accused 1 to 3 in crime No.237/2006 of Bekal Police Station, for the offence punishable under Sections 447 and 427 IPC read with Section 34 IPC and also under Section 3(1) of the P.D.P.P Act.

2. The prosecution alleges that the petitioners 1 and 2 are accused 1 and 2, the labours of the third accused, who employed them for the purpose of removing sand and cutting down the coconut trees from the Government property owned and possessed by the Irrigation Department. Accordingly, the petitioners 1 and 2 had cut down three coconut trees and removed the sand from the property. Therefore, at the instance of the Assistant Engineer of the Department, a complaint was lodged and the crime had been registered. The petitioners are before this Court, under Section 438 Cr.P.C.

3. The prosecution submits that the petitioners 1 and 2, being the labours, on the instruction of the third petitioner, had fell down three coconut trees and also removed the sand. The counsel for the petitioners submits that the house of the first petitioner is adjacent to the very same property; that there is a pathway leading to the same; that the coconut trees were not standing in the property of the mines and irrigation department and that they were on the pathway. It is too early to come to any conclusion. However, the fact is that no document is produced before me to show that the first petitioner or anyone else had got any right over the property, claimed by the defacto complainant.

4. In the above facts situation, without discussing on the merit of the matter, I direct the petitioners to surrender before the Investigating Officer, who is investigating crime No.237/2006 of Bekal Police Station, on 5.10.2006 between 9.30 a.m and 10.00 a.m.

5. The Investigating Officer shall interrogate the petitioners and thereafter, produce them before the

Court below, according to the law.

6. On production, the learned Magistrate shall allow the petitioners to be on bail, imposing such conditions, as are deemed necessary.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs